

**Kentucky Transportation Cabinet  
DBE Goal Methodology  
Federal Fiscal Year (FY) 2017-2019**

To comply with 49 CFR § 26.45, the Kentucky Transportation Cabinet (KYTC) established its overall DBE goal based on the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able firms within the Kentucky highway construction industry. KYTC set an overall goal of 11% of which it expects to meet 2.86% through race neutral means and 8.14% through race conscious means.

**A. Step One - Base Figure –§26.45 (c)**

Under the regulations, recipients must begin the goal-setting process by determining a base figure for relative availability of DBEs.

**1. Method Selected**

KYTC uses an alternate method that includes census data, a prequalification directory, and the Kentucky DBE directory. This approach is based on local market conditions and accounts for state prequalification requirements. Although KYTC utilized its prequalification directory in the calculation of available DBEs and non-DBEs, it was not exclusive source of data.

**2. Description of Data Used**

Data used in this calculation includes prequalified prime and sub-contractors, consultants, and appraisers that sought work on Federal Highway Administration (FHWA)-assisted construction projects in the local market area during the period of October 2015 – July 2016. Firms with North American Industry Classification System (NAICS) codes that do not relate to highway construction have not been included in the calculations.

According to the most current census data, there are 3,312 firms across the state conducting business in the NAICS codes in which the KYTC seeks participation. The data used to make this determination was the data available from FY 2016 and it was consistent with data from previous years. KYTC has determined that 75 % or more of the contractors and subcontractors with which it does business are located within the state of Kentucky.

To comply with Kentucky law, KRS §176.140, and its related regulations, firms must be financially and professionally qualified to do business with the state before submitting bids on any project issued by KYTC. As such, the KYTC believes that use of the prequalification directory, in addition to the census data and DBE directory, is the most appropriate source from which to collect data on the actual available firms. The use of this data provides a more accurate count of firms that are able to participate and bid on KYTC projects.

KYTC acknowledges that USDOT encourages recipients to consider supplementing the number of firms in its DBE directory for the purposes of goal-setting by considering potential DBEs. KYTC has determined that its current goal-setting process truly reflects the actual availability of ready, willing, and able DBEs in the local market area without the necessity to include potential DBEs.

KYTC further acknowledges that USDOT recommends weighting based on categories of contractors so the KYTC has weighted the data based on expenditures. The weighting was performed as part of the Step One calculations explained below.

### 3. Calculations Performed

#### Relative Base Figure

Considering the three categories of contracts (construction, professional services and right of way/utilities), the formula used to calculate the base figure becomes:

$$\frac{\text{DBE Contractors and Subcontractors} + \text{DBE consultants}}{\text{All Contractors and Subcontractors} + \text{All Consultants}} = \text{Relative Base Figure}$$

The resulting calculation is as follows:

**Table 1: Relative Base Figure**

NAICS	NUMBER OF AVAILABLE FIRMS		PERCENT OF AVAILABLE FIRMS		
	DBE Firms	All Firms	DBE %	Non DBE %	ALL
237310	64	359	9.3%	42.8%	52.1%
561730	25	59	3.6%	5%	8.6%
237990	20	101	3%	11.8%	14.8%
238990	39	78	5.6%	5.6%	11.2%
541618	20	91	3%	10.3%	13.3%
<b>Total</b>	<b>168</b>	<b>688</b>	<b>24.5%</b>	<b>75.5%</b>	<b>100%</b>

The KYTC believes this relative base figure calculation over counts the number of available DBEs as it assumes that every DBE has an equal opportunity and equal weight to perform KYTC contracts. However, in the practical application, not all DBEs have equal opportunity for participation as opportunity is dependent on the amount of dollars spent in each NAICS code. Therefore, to more accurately reflective the relative availability of DBE firms, as recommended by U.S. DOT, the KYTC performed a weighted calculation of availability. This calculation, which is based on the KYTC's expenditures in each NAICS code, is shown below in Table 2.

Weight (% of contract dollars NAICS category 2014-2015)  $\frac{\text{\# of DBE's in category}}{\text{\# of all firms in category}}$  = Weighted Percent for NAICS Category

**Table 2: Weighted Based Figure**

NAICS	NUMBER OF AVAILABLE FIRMS		AWARDED CONTRACT AMOUNT (FY 13)	WEIGHT	WEIGHTED AVAILABILITY	
Code	DBE Firms	All Firms	Dollars	%	DBE %	Non DBE %
237310	64	359	\$445,888,854.32	74.3%	13.2%	61.1%
561730	25	59	\$9,743,723,.64	1.6%	.68%	.92%
237990	20	101	\$114,689,434.81	19.1%	3.8%	15.3%
238990	39	78	\$1,204,638.50	.2%	.1%	.1%
541380	28	91	\$28,620,952.86	4.8%	1.1%	3.7%
<b>Total</b>	<b>168</b>	<b>688</b>	<b>\$600,147,604.13</b>	<b>100.00%</b>	<b>18.88%</b>	<b>81.12%</b>

As shown above, first a weight for each NAICS code was calculated, which is the percentage of the budget for KYTC contracts awarded from October 1, 2012 to September 30, 2013. The next step was to determine weight availability by dividing the number of DBEs by the total number of firms in each NAICS code. The results were then multiplied by the corresponding weight in each NAICS code. Lastly, the weighted percentages in each NAICS code are combined to determine the weighted base figure. Table 2 above, presents the calculation of weighted availability, which was determined to be **18.88% percent** for DBEs.

## **B. Step Two – Adjustments – §26.45 (d)**

DBE regulations at 49 CFR §26.45 (d), require an examination of available evidence in the local market to determine what adjustment to the base figure is needed, if any, to establish the overall goal.

### **1. Past Participation**

KYTC considered the capacity of DBEs to perform work as measured by the median past participation of DBEs on DOT-assisted contracts. From FY 2011 through FY 2015, DBEs performed 5.71%, 4.12%, 5.74%, 7.8% and 8.5% respectively, of the FHWA aid amount. The median past participation for these years is 5.74%. The large difference between the Step One relative weighted base figure (18.88%) and the median past DBE participation indicates that the capacity of DBEs to perform highway project work does not match the mere availability of such firms and suggests that an adjustment of the Step One figure is warranted. By calculating the average of median past participation and the Step One base availability figure, KYTC determined an adjusted base figure of 11%.

Fiscal Year	Total amount of Expenditures (Federal Assisted Contracts)	Actual Amount of Expenditures to DBE's	Actual Attainment of DBE goal%
2011	\$551,762,518	\$31,505,402	5.71%
2012	\$630,224,705	\$25,977,135	4.12%
2013	\$433,346,916	\$24,874,112	5.74%
2014	\$657,391,615	\$51,516,399	7.8%
2015	\$526,731,281	\$45,079,057	8.5%

5.74% Median past participation + 18.88 Base Figure = 12.31% Adjusted Base

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## 2. Other Evidence Considered

No disparity studies have been conducted in the local market area. KYTC is aware of other information that directly impacts DBE participation and seeks further adjustments. KYTC believes that making a downward adjustment of 7.88% is warranted because it reflects a more accurate measure of capacity and uses all available evidence. Along with that is "Pause 50" the plan that has been instituted by KYTC which will decrease the jobs being let by the cabinet in an attempt to be fiscally responsible with respect to budget. This combined with the median information leads us to recommend a further adjusted base figure from 12.31% to 11%. The highest attainment prior to "Pause 50" was 8.5%. The recommended 11% is still higher but adjust further for this decrease in contracts.

Accordingly, KYTC will set an overall DBE goal of **11%** for FY 2017-19.

## C. Public Participation - §26.45 (g)

The regulations require recipients to provide opportunities for public participation as part of the goal setting process. KYTC published dates and locations for public forums for discussion of the DBE goal statewide via radio, newspaper and television. These notices also announced that the proposed goal and methodology would be available for comment on the KYTC Office of Civil Rights and Small Business Development Website (<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development>). Written comments were also accepted. The Kentucky Association of Highway Contractors (KAHC) submitted a request to have the methodology explained prior to its formal submittal. The public forums did not yield relevant comments. Attendees inquired about DBE goals on state contracts and if we knew how much the goal would change but offered no feedback regarding the DBE goal methodology.

## D. Race/Gender Neutral and Conscious Measures -§26.51

KYTC projects that it will meet its overall goal with 2.86% race neutral participation and 8.14% race conscious participation. KYTC has not met its DBE goal for the past three

fiscal years. However, KYTC reviewed its DBE participation on projects (federally assisted contracts) closed out in the past five federal fiscal years (FY11-FY15), specifically examining the breakdown between race-neutral and race-conscious participation. KYTC measures race-conscious participation by counting payments made to DBEs to fulfill contract goals. KYTC measures race-neutral participation by counting payments made to DBEs in excess of contract goals or payments made to DBEs on contracts where no DBE goal has been set.

### **Expenditures to DBE's with Race Neutral/Race Conscious Breakdown**

<b>Fiscal Year</b>	<b>Total amount of Expenditures (Federal Assisted Contracts)</b>	<b>Actual Amount of Expenditures to DBE's</b>	<b>R/N (% of DBE Expenditures)</b>	<b>R/C (% of DBE Expenditures)</b>
2011	\$551,762,518	\$31,505,402	30%	70%
2012	\$630,224,705	\$25,977,135	20%	80%
2013	\$433,346,916	\$24,874,112	21%	79%
2014	\$657,391,615	\$51,516,399	34%	66%
2015	\$526,731,281	\$45,464,056	26%	74%

Based on the above table, KYTC achieved a median of 26% of the DBE goal by race-neutral means. Therefore, KYTC anticipates it can achieve 26% of the FY 17-19 DBE overall goal through race-neutral means.

Also, the KYTC will seek to provide DBEs supportive services specific to their needs, to help them grow and develop. This will include classroom and on-site technical, contracting procedures and requirements, management assistance and educational training opportunities to certified DBE firms in order to increase employment potential. These services will target DBEs to improve their long-term development, increase opportunities to participate, and achieve eventual self-sufficiency. Kentucky's Business Development Program (BDP) will also aid in this regard. Those firms utilizing the BDP will be able to take advantage of classes and resources in a program that will target their company's areas of need. We also plan to make the states DBE directory accessible in as many formats as possible to the universe of contractors.

### **E. Conclusion**

KYTC's goal methodology is consistent with the requirements of 49 CFR § 26.45 and reflects the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able businesses within the Kentucky highway construction industry. KYTC has used all available evidence to set an overall goal of 11%, of which it expects to meet 2.86% through race neutral means and 8.14% through race conscious means.

KYTC will monitor progress in meeting its goal over the next three years and will adjust the race conscious and race neutral split if necessary.